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9 **IN THE UNITED STATES DISTRICT COURT**  
10 **FOR THE DISTRICT OF ARIZONA**

11 CARRIE FERRARA CLARK,  
12  
13 Plaintiff,  
14  
15 vs.  
16  
17 CITY OF TUCSON,  
18  
19 Defendant.

Case No. 4:14-CV-02543-TUC-CKJ

**PLAINTIFF’S PROPOSED FORM OF  
VERDICT**

Hon. Cindy K. Jorgenson

20 Plaintiff Carrie Ferrara Clark submits the following proposed form of verdict.

21 **A. Title VII Disparate Treatment**

22 Has Carrie Clark proved by a preponderance of the evidence that the Defendant, City  
23 of Tucson, discriminated against her because of or on the basis of pregnancy, childbirth, or  
24 related medical conditions (including breast feeding) when it:

25 1. Treated Carrie Clark differently than male employees by failing to use  
26 Management Rights when assigning Plaintiff to fire stations between January 1, 2013, and  
March 26, 2013, that did not have a space which complied with federal law for expressing  
breast milk.

\_\_\_\_\_ Yes \_\_\_\_\_ No

2. Required Carrie Clark to meet, at fire department headquarters, with three  
male managers, who asked her inappropriate questions?

\_\_\_\_\_ Yes \_\_\_\_\_ No

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3. Singled out Carrie Clark to perform firefighting drills on May 22, 2014?

\_\_\_\_\_ Yes \_\_\_\_\_ No

4. Targeted Carrie Clark for excessive inspections by checking the fit of her turnouts on May 29, 2014?

\_\_\_\_\_ Yes \_\_\_\_\_ No

*If your answer to any one of Questions No. 1 through 4 is "YES," proceed to the next questions. If your answer to all of Questions No. 1 through 4 is "NO," do not respond to any other questions in Part A of this verdict form.*

5. Having found in favor of Carrie Clark as to one or more of her claims against Defendant, we the jury award her the following amount in compensatory damages.

Compensatory damages: \$ \_\_\_\_\_

6. Having found in favor of Carrie Clark as to one or more of her claims against Defendant, we the jury award her the following amount (if any) in punitive damages.

Punitive damages: \$ \_\_\_\_\_

1 **B. Title VII Retaliation**

2 1. Did Carrie Clark engage in a protected activity, that is, asserting her rights or  
3 filing a discrimination complaint?

4 \_\_\_\_\_ Yes \_\_\_\_\_ No

5 *If your answer to Question No. 1 is "YES," proceed to Question No. 2. If your*  
6 *answer is "NO," do not respond to any other questions in Part B of this verdict form.*

7 2. For each alleged adverse action below, please answer YES or NO:

8 a. Did Defendant subject Carrie Clark to an adverse employment action  
9 when it disciplined her for her conduct during the March 20, 2013, telephone call  
10 with Assistant Chief Fischback, Deputy Chief Rodriguez, and Human Resources  
11 Manager JoAnn Acosta?

11 \_\_\_\_\_ Yes \_\_\_\_\_ No

12 b. Did Defendant subject Carrie Clark to an adverse employment action  
13 when it deprived Carrie Clark of 3 hours of vacation time on June 19, 2014?

14 \_\_\_\_\_ Yes \_\_\_\_\_ No

15 c. Did Defendant subject Carrie Clark to an adverse employment action  
16 when it precluded Carrie from a 6:00 a.m. start time while on light duty from June  
17 19, 2014, through August 24, 2014?

18 \_\_\_\_\_ Yes \_\_\_\_\_ No

19 d. Did Defendant subject Carrie Clark to an adverse employment action  
20 when it restricted her to exercising at only headquarters while on light duty from  
21 June 19, 2014, through August 24, 2014?

21 \_\_\_\_\_ Yes \_\_\_\_\_ No

22 e. Did Defendant subject Carrie Clark to an adverse employment action  
23 when it required her to obtain a doctor's note on June 19, 2014, in order to exercise  
24 while she was on light duty from June 19, 2014, through August 24, 2014?

25 \_\_\_\_\_ Yes \_\_\_\_\_ No

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f. Did Defendant subject Carrie Clark to an adverse employment action when it gave her an Educational Counseling for her conduct during the May 22, 2014, drill(s)?

Yes  No

g. Did Defendant subject Carrie Clark to an adverse employment action when it gave her an Educational Counseling for not being in harmony with others on March 24, 2016?

Yes  No

h. Did Defendant subject Carrie Clark to an adverse employment action when it transferred her involuntarily from Fire Prevention into Operations effective May 1, 2016?

Yes  No

i. Did Defendant subject Carrie Clark to an adverse employment action when it deprived her of seniority based on the retroactive application of the new Seniority Policy to May 1, 2016?

Yes  No

j. Did Defendant subject Carrie Clark to an adverse employment action when it deprived her of compensation for being deposed on May 25, 2016, October 27, 2016, January 10, 2017, and June 15, 2017?

Yes  No

k. Did Defendant subject Carrie Clark to an adverse employment action when it deprived her of Paramedic Specialty Pay for one pay period in the amount of \$69.23?

Yes  No

*If your answer to any one of (a) through (k), are is "YES," proceed to Question No. 3. If your answer to all of (a) through (k), are "NO," do not respond to any other questions in Part B of this verdict form.*

3. Was Carrie Clark subjected to an adverse employment action because of her participation in a protected activity?

Yes  No

1            *If your answer to Question No. 3 is “YES,” proceed to the next questions. If your*  
2            *answer is “NO,” do not respond to any other questions in Part B of this verdict form.*

3            4.        Having found in favor of Carrie Clark as to one or more of her claims against  
4            Defendant, we the jury award her the following amount in compensatory damages.

5                            Compensatory damages: \$ \_\_\_\_\_

6            5.        Having found in favor of Carrie Clark as to one or more of her claims against  
7            Defendant, we the jury award her the following amount (if any) in punitive damages.

8                            Punitive damages: \$ \_\_\_\_\_

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1 **C. Fair Labor Standards Act**

2 Did the Defendant fail to provide Carrie Clark with a place, other than a bathroom,  
3 shielded from view and free from intrusion from coworkers and the public, which she could  
4 use to express breast milk?

5 \_\_\_\_\_ Yes                      \_\_\_\_\_ No

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7 *If your answer is "YES," proceed to the next questions. If your answer is "NO," do*  
8 *not respond to any other questions in Part C of this verdict form.*

9 Having found in favor of Carrie Clark as to one or more of her claims against  
10 Defendant, we the jury award her the following amount in compensatory damages.

11 Compensatory damages: \$ \_\_\_\_\_

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13 Having found in favor of Carrie Clark as to one or more of her claims against  
14 Defendant, we the jury award her the following amount (if any) in punitive damages.

15 Punitive damages: \$ \_\_\_\_\_

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1 **D. Fair Labor Standards Act Retaliation**

2 1. Did Carrie Clark oppose an unlawful employment practice, that is,  
3 Defendant's failure to provide a space to express her breast milk that complied with federal  
4 law

5  Yes  No

6 *If your answer to Question No. 1 is "YES," proceed to Question No. 2. If your*  
7 *answer is "NO," do not respond to any other questions in Part D of this verdict form.*

8 2. For each alleged adverse action below, please answer YES or NO:

9 a. Did Defendant subject Carrie Clark to an adverse employment action  
10 when it disciplined her for her conduct during the March 20, 2013, telephone call  
11 with Assistant Chief Fischback, Deputy Chief Rodriguez, and Human Resources  
12 Manager JoAnn Acosta?

13  Yes  No

14 b. Did Defendant subject Carrie Clark to an adverse employment action  
15 when it deprived Carrie Clark of 3 hours of vacation time on June 19, 2014?

16  Yes  No

17 c. Did Defendant subject Carrie Clark to an adverse employment action  
18 when it precluded Carrie from a 6:00 a.m. start time while on light duty from June  
19 19, 2014, through August 24, 2014?

20  Yes  No

21 d. Did Defendant subject Carrie Clark to an adverse employment action  
22 when it restricted her to exercising at only headquarters while on light duty from  
23 June 19, 2014, through August 24, 2014?

24  Yes  No

25 e. Did Defendant subject Carrie Clark to an adverse employment action  
26 when it required her to obtain a doctor's note on June 19, 2014, in order to exercise  
while she was on light duty from June 19, 2014, through August 24, 2014?

Yes  No

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h. Did Defendant subject Carrie Clark to an adverse employment action when it transferred her involuntarily from Fire Prevention into Operations effective May 1, 2016?

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j. Did Defendant subject Carrie Clark to an adverse employment action when it deprived her of compensation for being deposed on May 25, 2016, October 27, 2016, January 10, 2017, and June 15, 2017?

Yes  No

k. Did Defendant subject Carrie Clark to an adverse employment action when it deprived her of Paramedic Specialty Pay for one pay period in the amount of \$69.23?

Yes  No

*If your answer to any one of (a) through (k), is "YES," proceed to Question No. 3. If your answer to all of (a) through (k), are "NO," do not respond to any other questions in Part D of this verdict form.*



1           3.     Was Carrie Clark subjected to an adverse employment action because of her  
2 participation in a protected activity?

3                           \_\_\_\_\_ Yes    \_\_\_\_\_ No

4                   *If your answer to Question No. 3 is "YES," proceed to the next questions. If your*  
5 *answer is "NO," do not respond to any other questions in Part D of this verdict form.*

6           4.     Having found in favor of Carrie Clark as to one or more of her claims against  
7 Defendant, we the jury award her the following amount in compensatory damages.

8                           Compensatory damages: \$ \_\_\_\_\_

9           5.     Having found in favor of Carrie Clark as to one or more of her claims against  
10 Defendant, we the jury award her the following amount (if any) in punitive damages.

11                           Punitive damages: \$ \_\_\_\_\_

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14   DATED this 10<sup>th</sup> day of April, 2019.

15  
16   **JACOBSON LAW FIRM**

17   *s/Jeffrey H. Jacobson*  
18   Jeffrey H. Jacobson  
19   Attorney for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that on April 10, 2019, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

Michelle Saavedra  
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*Attorneys for Defendant*

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